

CHAPTER 216
RECORDS TO BE KEPT BY EMPLOYERS

[Prior to 10/21/98, see 347—Ch 216]

875—216.1(91D) Form of records—scope of rules.

216.1(1) *Form of records.* No particular order or form of records is prescribed by the rules in this chapter. However, every employer subject to any provisions of Iowa Code chapter 91D is required to maintain records containing the information and data required by the specific rules of this chapter. The records may be maintained and preserved on microfilm or other basic source document of an automatic word or data processing memory provided that adequate projection or viewing equipment is available, that the reproductions are clear and identifiable by date or pay period, and that extensions or transcriptions of the information required by this chapter are made available upon request.

216.1(2) *Scope of rules.*

a. Rules 216.2(91D) to 216.9(91D) contain the requirements generally applicable to all employers employing covered employees, including the requirements relating to the posting of notices, the preservation and location of records, and the record-keeping requirements for employers of covered employees. In addition, rule 216.3(91D) contains the requirements relating to executive, administrative, and professional employees (including academic administrative personnel or teachers in elementary or secondary schools), and outside sales employees.

b. Rules 216.27(91D) to 216.33(91D) deal with the information and data which must be kept for employees (other than executive, administrative, etc., employees) who are subject to the exemptions provided. Additionally, this rule also specifies the records needed for deductions from and additions to wages for “board, lodging, or other facilities,” industrial homeworkers and employees whose tips are credited toward wages and requires the recording of more, fewer, or different items of information or data than required under the generally applicable record-keeping requirements of rule 216.2(91D).

216.1(3) *Relationship to other record-keeping and reporting requirements.* Nothing in this chapter shall excuse any party from complying with any record-keeping or reporting requirement imposed by any other federal, state or local law, ordinance, regulation or rule.

216.1(4) *Initial employment wage rate—employer’s record.* If the employer pays an initial employment wage rate as specified in Iowa Code section 91D.1(1) “d” as amended by 2007 Iowa Acts, House File 1, the employer’s records shall include an indication as to the starting and ending date the employee is paid the initial employment wage rate.

SOURCE: 29 CFR 516.1.

875—216.2(91D) Employees subject to minimum wage.

216.2(1) *Items required.* Every employer shall maintain and preserve payroll or other records containing the following information and data with respect to each employee to whom the Act applies:

a. Name in full, as used for social security record-keeping purposes, and on the same record, the employee’s identifying symbol or number if such is used in place of name on any time, work, or payroll records;

b. Home address, including ZIP code;

c. Date of birth, if under 19;

d. Reserved;

e. Time of day and day of week on which the employee’s workweek begins. If the employee is part of a work force or employed in or by an establishment all of whose workers have a workweek beginning at the same time on the same day, a single notation of the time of the day and beginning day of the workweek for the whole work force or establishment will suffice;

f. Basis of pay by indicating the monetary amount paid on a per hour, per day, per week, per piece, commission on sales, or other basis;

g. Hours worked each workday and total hours worked each workweek (for purposes of this rule, a “workday” is any fixed period of 24 consecutive hours and a “workweek” is any fixed and regularly recurring period of seven consecutive workdays);

h. Total daily or weekly straight-time earnings or wages due for hours worked during the workday or workweek, exclusive of premium overtime compensation;

i. Reserved;

j. Total additions to or deductions from wages paid each pay period including employee purchase orders or wage assignments. Also, in individual employee records, the dates, amounts, and nature of the items which make up the total additions and deductions;

k. Total wages paid each pay period; and

l. Date of payment and the pay period covered by payment.

216.2(2) *Records of retroactive payment of wages.* Every employer who makes retroactive payment of wages or compensation under the supervision of the labor commissioner, the administrator of the U.S. Department of Labor, Wage and Hour Division, or court order shall:

a. Record and preserve, as an entry on the pay records, the amount of the payment to each employee, the period covered by such payment, and the date of payment; and

b. Prepare a report of each payment on a receipt form provided by or authorized by the commissioner, and

1. Preserve a copy as part of the records,

2. Deliver a copy to the employee, and

3. File the original, as evidence of payment by the employer and receipt by the employee, with the commissioner within ten days after payment is made.

216.2(3) *Employees working on fixed schedules.* With respect to employees working on fixed schedules, an employer may maintain records showing instead of the hours worked each day and each workweek as required by 216.2(1) “g,” the schedule of daily and weekly hours the employee normally works. Also,

a. In weeks in which an employee adheres to this schedule, indicate by check mark, statement or other method that the hours were actually worked; and

b. In weeks in which more or less than the scheduled hours are worked, shows the exact number of hours worked each day and each week.

SOURCE: 29 CFR 516.2.

875—216.3(91D) *Bona fide executive, administrative, and professional employees (including academic administrative personnel and teachers in elementary or secondary schools), and outside sales employees employed pursuant to 875—subrule 215.4(1).* With respect to each employee in a bona fide executive, administrative, or professional capacity (including employees employed in the capacity of academic administrative personnel or teachers in elementary or secondary schools), or in outside sales, as defined in 875—218.1(91D) to 218.5(91D) (pertaining to so-called “white collar” employee exemptions), employers shall maintain and preserve records containing all the information and data required by 216.2(1) except paragraphs “f” and “g” and, in addition, the basis on which wages are paid in sufficient detail to permit calculation for each pay period of the employee’s total remuneration for employment including fringe benefits and perquisites. (This may be shown as the dollar amount of earnings per month, per week, per month plus commissions, etc., with appropriate addenda such as “plus hospitalization and insurance plan A,” “benefit package B,” “two weeks’ paid vacation,” etc.).

SOURCE: 29 CFR 516.3.

875—216.4(91D) Posting of notices. Every employer employing any employees subject to the minimum wage provisions of the Iowa minimum wage Act shall post and keep posted a notice explaining the Act, as prescribed by the division of labor, in conspicuous places in every establishment where such employees are employed so as to permit them to readily observe a copy.

SOURCE: 29 CFR 516.4.

875—216.5(91D) Records to be preserved three years. Each employer shall preserve for at least three years:

216.5(1) Payroll records. From the last date of entry, all payroll or other records containing the employee information and data required under any of the applicable rules.

216.5(2) Collective bargaining agreements relied upon for the exclusion of certain costs under the definition of “wage” as stated in 875—subrule 215.3(23).

216.5(3) Sales and purchase records. A record of

- a. Total dollar volume of sales or business, and
- b. Total volume of goods purchased or received during the periods (weekly, monthly, quarterly, etc.) in the form in which the employer maintains records in the ordinary course of business.

SOURCE: 29 CFR 516.5.

875—216.6(91D) Records to be preserved two years.

216.6(1) *Supplementary basic records.* Each employer required to maintain records under this chapter shall preserve for a period of at least two years:

a. *Basic employment and earnings records.* From the date of last entry, all basic time and earning cards or sheets on which are entered the daily starting and stopping time of individual employees, or of separate work forces, or the amounts of work accomplished by individual employees on a daily, weekly, or pay-period basis (for example, units produced) when those amounts determine, in whole or in part, the pay-period earnings or wages of those employees.

b. *Wage rate tables.* From their last effective date, all tables or schedules of the employer which provide the piece rates or other rates used in computing straight-time earnings, wages, or salary, or overtime pay computation.

216.6(2) *Order, shipping, and billing records.* From the last date of entry, the originals or true copies of all customer orders or invoices received, incoming or outgoing shipping or delivery records, as well as all bills of lading and all billings to customers (not including individual sales slips, cash register tapes or the like) which the employer retains or makes in the usual course of business operations.

216.6(3) *Records of additions to or deductions from wages paid:*

- a. Those records relating to individual employees referred to in 216.2(1)“j”; and
- b. All records used by the employer in determining the original cost, operating and maintenance cost, and depreciation and interest charges, if such costs and charges are involved in the additions to or deductions from wages paid.

SOURCE: 29 CFR 516.6.

875—216.7(91D) Place for keeping records and their availability for inspection.

216.7(1) *Place of records.* Each employer shall keep the records required by this chapter safe and accessible at the place or places of employment, or at one or more established central record-keeping offices where records are customarily maintained. Where the records are maintained at a central record-keeping office, other than in the place or places of employment, the records shall be made available within 72 hours following notice from the commissioner or a duly authorized and designated representative.

216.7(2) *Inspection of records.* All records shall be available for inspection and transcription by the commissioner.

SOURCE: 29 CFR 516.7.

875—216.8(91D) Computations and reports. Each employer required to maintain records under this chapter shall make extension, recomputation, or transcription of the records and shall submit to the division of labor the reports concerning persons employed and the wages, hours, and other conditions and practices of employment set forth in the records as the commissioner may request in writing.

SOURCE: 29 CFR 516.8.

875—216.9(91D) Petitions for exceptions.

216.9(1) Submission of petitions for relief. Any employer or group of employers who, due to peculiar conditions under which they must operate, desire authority to maintain records in a manner other than required in this chapter, or to be relieved of preserving certain records for the period specified in this chapter, may submit a written petition to the administrator of the U.S. Department of Labor, Wage and Hour Division, requesting the authority, setting forth the reasons therefor. If the administrator will not grant a petition for lack of coverage under the federal Fair Labor Standards Act, the petitioner may petition the commissioner. Any exception granted by the administrator pursuant to 29 CFR 516.9 will be accepted by the commissioner.

216.9(2) Reserved.

SOURCE: 29 CFR 516.9.

875—216.10 Reserved.

EMPLOYEES SUBJECT TO MISCELLANEOUS EXEMPTIONS

875—216.11 to 216.26 Reserved.

875—216.27(91D) Board, lodging, or other facilities.

216.27(1) In addition to keeping other records required by this chapter, an employer who makes deductions from the wages of the employees for “board, lodging, or other facilities” (as these terms are used in the definition of “wage” as stated in 875—subrule 215.3(23)) furnished to them by the employer or by an affiliated person, or who furnishes “board, lodging, or other facilities” to employees as an addition to wages, shall maintain and preserve records substantiating the cost of furnishing each class of facility except as noted in 216.27(3). Separate records of the cost of each item furnished to an employee need not be kept. The requirements may be met by keeping combined records of the costs incurred in furnishing each class of facility, such as housing, fuel, or merchandise furnished through a company store or commissary. Where cost records are kept for a “class” of facility rather than for each individual article furnished to employees, the records shall also show the gross income derived from

each class of facility, e.g., gross rentals in the case of houses, total sales through the store or commissary, total receipts from sales of fuel.

a. The records shall include itemized accounts showing the nature and amount of any expenditures entering into the computation of the reasonable cost, as defined in 875—Chapter 217, and shall contain the data required to compute the amount of the depreciated investment in any assets allowable to the furnishing of the facilities, including the date of acquisition or construction, the original cost, the rate of depreciation and the total amount of accumulated depreciation on such assets. If the assets include merchandise held for sale to employees, the records should contain data from which the average net investment in inventory can be determined.

b. No particular degree of itemization is prescribed. However, the amount of detail shown in these accounts should be consistent with good accounting practices and should be sufficient to enable the commissioner to verify the nature of the expenditure and the amount by reference to the basic records which must be preserved pursuant to 216.6(3)“*b.*”

216.27(2) The employer shall maintain records showing on a workweek basis those additions to or deductions from wages where additions to or deductions from wages paid so affect the total cash wages due in any workweek (even though the employee actually is paid on other than a workweek basis) as to result in the employee receiving less in cash than the applicable minimum hourly wage.

216.27(3) The records specified in this rule are not required with respect to an employee in any workweek in which the employee is not subject to the overtime provisions of the federal Fair Labor Standards Act, 29 U.S.C. 207, and receives not less than the applicable statutory minimum wage in cash for all hours worked in that workweek.

SOURCE: 29 CFR 516.27.

875—216.28(91D) Tipped employees.

216.28(1) With respect to each tipped employee whose wages are determined pursuant to the definition of “wage” in 215.3(23), the employer shall maintain and preserve payroll or other records containing all the information and data required in 216.2(1) and the following:

a. A symbol, letter or other notation placed on the pay records identifying each employee whose wage is determined in part by tips;

b. Weekly or monthly amount reported by the employee, to the employer, of tips received (this may consist of reports made by the employees to the employer on IRS Form 4070);

c. Amount by which the wages of each tipped employee have been deemed to be increased by tips as determined by the employer (not in excess of 40 percent of the applicable statutory minimum wage). The amount per hour which the employer takes as a tip credit shall be reported to the employee in writing each time it is changed from the amount per hour taken in the preceding week;

d. Hours worked each workday in any occupation in which the employee does not receive tips, and total daily or weekly straight-time payment made by the employer for such hours; and

e. Hours worked each workday in occupations in which the employee receives tips, and total daily or weekly straight-time earnings for such hours.

216.28(2) Reserved.

SOURCE: 29 CFR 516.28.

875—216.29 Reserved.

875—216.30(91D) Learners, apprentices, messengers, students, or persons with a disability employed under special certificates as provided in the federal Fair Labor Standards Act, 29 U.S.C. 214.

216.30(1) With respect to persons employed as learners, apprentices, messengers or full-time students employed outside of their school hours in any retail or service establishment, in agriculture, or in institutions of higher education, or persons with a disability employed at special minimum hourly rates under special certificates pursuant to the federal Fair Labor Standards Act, 29 U.S.C. 214, employers shall maintain and preserve records containing the same information and data required with respect to other employees employed in the same occupations.

For the purposes of this rule, the following definitions shall apply:

a. *“Apprentice”* means a worker at least 16 years of age, except where a higher minimum age standard is otherwise fixed by law, who is employed to learn a skilled trade and in conformity with the standards of apprenticeship.

b. *“Full-time student”* means a student who receives primary instruction at the physical location of a bona fide educational institution. A full-time student retains that status during the student’s winter, summer and other vacations. Employment must be in compliance with applicable child-labor laws. An agricultural or retail service establishment employer is permitted to employ not more than six full-time students per workday at subminimum wage. A full-time student certificate will not be issued for a period longer than one year, nor will it be issued retroactively. A subminimum wage of at least 85 percent of the applicable minimum wage is permitted.

c. *“Handicapped worker”* means an individual whose earning capacity is impaired by age or physical or mental deficiency or injury for the work to be performed. *“Handicapped trainee”* means an individual whose earning is impaired by age or physical or mental deficiency or injury, and who is receiving or scheduled to receive on-the-job training in industry under any authorized vocational rehabilitation program.

The application for special certificate shall include the nature of the disability, a description of the occupation in which the worker is to be employed and the wage the firm proposes to guarantee the worker per hour. The nature of the disability shall be set out in detail.

When a wage is requested which is less than 50 percent of the minimum wage applicable, the application shall also contain evidence that the individual is multihandicapped or so severely impaired that the individual is unable to engage in competitive employment. *“Competitive employment”* is employment of a handicapped worker whose earning or productive capacity would yield wages equal to at least 50 percent of the minimum wage as wages which are commensurate with those for nonhandicapped workers in the industry in the vicinity for the same type, quality and quantity of work. For multihandicapped workers the rate shall be not less than 25 percent of the minimum wage.

d. *“Learner”* means a worker whose total experience in an authorized learner occupation in the industry is usually within the past three years.

e. *“Messenger”* means an individual engaged primarily in delivering letters and messages at a wage lower than the minimum wage.

f. *“Student-learner”* means a student who is receiving instruction in an accredited school, college or university and who is employed on a part-time basis pursuant to a bona fide vocational training program. The student-learner must be at least 16 years of age. The student-learner must be at least 18 years of age if employed in any hazardous occupation. The number of student-learners to be employed in one establishment must not be more than a small proportion of its working force. The special minimum wage rate shall be not less than 75 percent of the applicable minimum wage.

REFERENCE/SOURCE: 29 U.S.C. 214, 29 CFR 519.4, 522.2.

216.30(2) In addition, each employer shall segregate on the payroll or pay records the names and required information and data with respect to those learners, apprentices, messengers, persons with a disability and students, employed under special certificates. A symbol or letter may be placed before each name on the payroll or pay records indicating that that person is a “learner,” “apprentice,” “messenger,” “student,” or “person with a handicap,” employed under a special certificate.

216.30(3) The initial employment wage rate established in Iowa Code section 91D.1(1) “d” as amended by 2007 Iowa Acts, House File 1, shall be the basis for initial employment under this rule. The amount approved by a special order by the Secretary of Labor shall be effective if more than the amount specified in Iowa Code section 91D.1(1) “d” as amended by 2007 Iowa Acts, House File 1. If the Secretary of Labor’s approved rate is lower than the initial employment wage rate, the initial employment wage rate shall be applicable for the period covered by the Secretary of Labor’s order.

216.30(4) Federal special minimum wage certificates will be honored at the applicable Iowa minimum wage rate as applied to the certificate.

SOURCE: 29 CFR 516.30.

875—216.31(91D) Industrial homeworkers.

216.31(1) Definitions.

a. “Industrial homeworker” and “homeworker,” as used in this rule, means any employee employed or suffered or permitted to perform industrial homework for an employer.

b. “Industrial homework,” as used in this rule, means the production by any person in or about a home, apartment, tenement, or room in a residential establishment of goods for an employer who suffers or permits production, regardless of the source (whether obtained from an employer or elsewhere) of the materials used by the homeworker in production.

c. The meaning of the terms “employ,” “employee,” “employer,” “goods,” “person,” and “production” as used in this rule is the same as in 875—subrules 215.3(6), 215.3(7), 215.3(9), 215.3(12), and 215.3(17).

216.31(2) Items required. Every employer shall maintain and preserve payroll or other records containing the following information and data with respect to each and every industrial homeworker employed:

a. Name in full, and on the same record, the employee’s identifying symbol or number if used in place of name on any time, work, or payroll records. This shall be the same as that used for Social Security purposes.

b. House address, including ZIP code.

c. Date of birth, if under 19.

d. With respect to each lot of work:

(1) Date on which work is given out to worker, or begun by worker, and amount of such work given out or begun,

(2) Date on which work is turned in by worker and amount of such work,

(3) Kind of articles worked on and operations performed,

(4) Piece rates paid,

(5) Hours worked on each lot of work turned in,

(6) Wages paid for each lot of work turned in,

(7) Deductions for social security taxes, and

(8) Date of wage payment and pay period covered by payment.

e. With respect to each week:

(1) Hours worked each week,

(2) Wages earned for each week at regular piece rates,

(3) Extra pay due each week for overtime worked,

(4) Total wages earned each week, and

(5) Deductions for social security taxes.

f. With respect to any agent, distributor, or contractor:

(1) The name and address of each agent, distributor, or contractor through whom homework is distributed or collected and name, and

(2) The address of each homeworker to whom homework is distributed or from whom it is collected by each such agent, distributor, or contractor.

g. Record of retroactive payment of wages. Every employer who makes retroactive payment of wages or compensation under the supervision of the administrator or the commissioner shall:

(1) Record and preserve, as an entry on the payroll or other pay records, the amount of such payment to each employee, the period covered by the payment, and the date of payment, and

(2) Prepare a report of each payment on the receipt form provided or authorized by the commissioner, and

1. Preserve a copy as part of the employer's records,

2. Deliver a copy to the employee, and

3. File the original, which shall evidence payment by the employer and receipt by the employee, with the commissioner within ten days after payment is made.

216.31(3) *Homework handbook.* In addition to the information and data required in 216.31(2), a separate handbook (to be obtained by the employer from the division and supplied by the employer to each worker) shall be kept for each homeworker. The information required therein shall be entered by the employer or the person distributing or collecting homework on behalf of the employer each time work is given out to or received from a homeworker. Except for the time necessary for the making of entries by the employer, the handbook must remain in the possession of the homeworker until such time as the division may request it. Upon completion of the handbook (that is, no space remains for additional entries) or termination of the homeworker's services, the handbook shall be returned to the employer for preservation in accordance with the rules in this chapter. A separate record and a separate handbook shall be kept for each person performing homework.

216.31(4) *Preservation of industrial homework certificates.* Certificates issued to permit homework in the restricted industries (29 CFR 530) shall be preserved in accordance with the regulations of 29 CFR 530.8 and in subrule 216.5(2).

SOURCE: 29 CFR 516.31.

875—216.32 Reserved.

875—216.33(91D) Employees employed in agriculture pursuant to 875—subrule 215.4(6).

216.33(1) No records, except as required under 216.33(6), need be maintained by an employer who did not use more than 500 days of agricultural labor in any quarter of the preceding calendar year, unless it can be reasonably anticipated that more than 500 days of agricultural labor will be used in at least one calendar quarter of the current calendar year. The 500-day test includes the work of agricultural workers supplied by crew leaders, or farm labor contractors, if the farmer is an employer of the workers, or a joint employer of the workers with the crew leader or farm labor contractor. However, members of the employer's immediate family are not included. (A "day" is any day during which an employee does agricultural work for one hour or more.)

216.33(2) If it can be reasonably anticipated that the employer will use more than 500 days of agricultural labor in at least one calendar quarter of the current calendar year, the employer shall maintain and preserve for each employee records containing all the information and data required by 216.2(1) "a" and "b" and the following:

- a.* Symbols or other identifications separately designating those employees who are
 - (1) Members of the employer's immediate family as defined in 875—paragraph 215.4(6) “*b*,”
 - (2) Hand harvest laborers as defined in 875—paragraph 215.4(6) “*c*” or “*d*,” and
 - (3) Employees principally engaged in the range production of livestock as defined in 875—paragraph 215.4(6) “*e*.”
- b.* For each employee, other than members of the employer's immediate family, the number of days worked each week or each month.

216.33(3) For the entire year following a year in which the employer used more than 500 days of agricultural labor in any calendar quarter, the employer shall maintain, and preserve in accordance with rules 875—216.5(91D) and 875—216.6(91D), for each covered employee (other than members of the employer's immediate family, hand harvest laborers and livestock range employees as defined in 875—paragraphs 215.4(6) “*b*,” “*c*,” “*d*,” and “*e*,” records containing all the information and data required by 216.2(1) except paragraphs “*c*” and “*h*.”

216.33(4) In addition to other required items, the employer shall keep on file with respect to each hand harvest laborer as defined in 875—paragraph 215.4(6) “*c*” for whom exemption is taken, a statement from each such employee showing the number of weeks employed in agriculture during the preceding calendar year.

216.33(5) With respect to hand harvest laborers as defined in 875—paragraph 215.4(6) “*d*” for whom exemption is taken, the employer shall maintain in addition to subrule 216.33(2), the minor's date of birth and name of the minor's parent or person standing in place of the parent.

216.33(6) Every employer (other than parents or guardians standing in the place of parents employing their own child or a child in their custody) who employs in agriculture any minor under 18 years of age on days when school is in session or on any day if the minor is employed in an occupation found to be hazardous by the commissioner shall maintain and preserve records containing the following data with respect to each and every such minor so employed:

- a.* Name in full,
- b.* Place where minor lives while employed (if the minor's permanent address is elsewhere, give both addresses), and
- c.* Date of birth.

216.33(7) Where a farmer and a bona fide independent contractor or crew leader are joint employers of agricultural laborers, each employer is responsible for maintaining and preserving the records required by this rule. Duplicate records of hours and earnings are not required. The requirements will be considered met if the employer who actually pays the employees maintains and preserves the records specified in 216.33(3) and 216.33(6).

SOURCE: 29 CFR 516.33.

These rules are intended to implement Iowa Code chapter 91D.

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